

House Study Bill 683

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON MADDOX)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to protective orders and court-approved consent
2 agreements under the domestic abuse Act.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 6545HC 80
5 rh/gg/14

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1 1 Section 1. Section 236.3A, subsection 1, Code 2003, is
1 2 amended to read as follows:
1 3 1. The department shall prescribe standard forms to be
1 4 used by plaintiffs seeking protective orders by proceeding pro
1 5 se in actions under this chapter. The standard forms shall
1 6 include language in fourteen-point boldface type, ~~with a box~~
~~1 7 which may be checked by the plaintiff, indicating that the~~
~~1 8 plaintiff wishes to proceed by filing an affidavit pursuant to~~
~~1 9 section 236.3, because the plaintiff does not have sufficient~~
~~1 10 funds to pay the cost of filing and service.~~ Standard forms
1 11 prescribed by the department shall be the exclusive forms used
1 12 by plaintiffs proceeding pro se, and may be used by other
1 13 plaintiffs. The department shall distribute the forms to the
1 14 clerks of the district courts.
1 15 Sec. 2. Section 236.8, Code 2003, is amended to read as
1 16 follows:
1 17 236.8 VIOLATION OF ORDER == CONTEMPT == PENALTIES ==
1 18 HEARINGS.
1 19 1. A person commits a simple misdemeanor or the court may
1 20 hold a person in contempt for a violation or attempted
1 21 violation of an order or court-approved consent agreement
1 22 entered under this chapter, including a violation or attempted
1 23 violation of a valid foreign protective order under section
1 24 236.19, subsection 3, for a violation or attempted violation
1 25 of a temporary or permanent protective order or order to
1 26 vacate the homestead under chapter 598, for a violation or
1 27 attempted violation of any order that establishes conditions
1 28 of release or is a protective order or sentencing order in a
1 29 criminal prosecution arising from a domestic abuse assault, ~~or~~
1 30 for a violation or attempted violation by an adult of a
1 31 protective order under chapter 232, or for a violation or
1 32 attempted violation of a statute in another state
1 33 substantially corresponding to the violations described in
1 34 this subsection.
1 35 2. If convicted or held in contempt for a violation or
2 1 attempted violation of an order or agreement described in this
2 2 section, the defendant shall serve a jail sentence. Any jail
2 3 sentence of more than one day imposed under this section shall
2 4 be served on consecutive days. A defendant who is held in
2 5 contempt or convicted may be ordered by the court to pay the
2 6 plaintiff's attorney fees and court costs incurred in the
2 7 proceedings under this section.
2 8 3. A hearing in a contempt proceeding brought pursuant to
2 9 this section shall be held not less than five and not more
2 10 than fifteen days after the issuance of a rule to show cause,
2 11 as set by the court.
2 12 4. A person shall not be convicted of and held in contempt
2 13 for the same violation or attempted violation of an order or
2 14 court-approved consent agreement entered under this chapter
2 15 including the same violation or attempted violation of a valid
2 16 foreign protective order under section 236.19, subsection 3,
2 17 for the same violation or attempted violation of a temporary
2 18 or permanent protective order or order to vacate the homestead
2 19 under chapter 598, for a violation or attempted violation of
2 20 any order that establishes conditions of release or is a
2 21 protective order or sentencing order in a criminal prosecution
2 22 arising from a domestic abuse assault, or for a violation or

2 23 attempted violation of a protective order under chapter 232 or
2 24 for a violation or attempted violation of a statute in another
2 25 state substantially corresponding to the violations described
2 26 in this section.

2 27 5. For purposes of this section, "attempted violation"
2 28 means a person does any act by which the person expects to set
2 29 in motion a force or chain of events which will cause or
2 30 result in a violation of an order, court-approved consent
2 31 agreement, or protective order described in this section.

2 32 Sec. 3. Section 236.11, unnumbered paragraphs 1 through 3,
2 33 Code 2003, are amended to read as follows:

2 34 A peace officer shall use every reasonable means to enforce
2 35 an order or court-approved consent agreement entered under
3 1 this chapter, a temporary or permanent protective order or
3 2 order to vacate the homestead under chapter 598, an order that
3 3 establishes conditions of release or is a protective order or
3 4 sentencing order in a criminal prosecution arising from a
3 5 domestic abuse assault, or a protective order under chapter
3 6 232. If a peace officer has reason to believe that domestic
3 7 abuse has occurred, the peace officer shall ask the abused
3 8 person if any prior orders exist, and shall contact the
3 9 twenty-four hour dispatcher to inquire if any prior orders
3 10 exist. If a peace officer has probable cause to believe that
3 11 a person has violated or has attempted to violate an order or
3 12 approved consent agreement entered under this chapter, a
3 13 temporary or permanent protective order or order to vacate the
3 14 homestead under chapter 598, an order establishing conditions
3 15 of release or a protective or sentencing order in a criminal
3 16 prosecution arising from a domestic abuse assault, or, if the
3 17 person is an adult, a violation or attempted violation of a
3 18 protective order under chapter 232, the peace officer shall
3 19 take the person into custody and shall take the person without
3 20 unnecessary delay before the nearest or most accessible
3 21 magistrate in the judicial district in which the person was
3 22 taken into custody. The magistrate shall make an initial
3 23 preliminary determination whether there is probable cause to
3 24 believe that an order or consent agreement existed and that
3 25 the person taken into custody has violated or attempted to
3 26 violate its terms. The magistrate's decision shall be entered
3 27 in the record.

3 28 If a peace officer has probable cause to believe that a
3 29 person has violated or attempted to violate an order or
3 30 approved consent agreement entered under this chapter, a
3 31 temporary or permanent protective order or order to vacate the
3 32 homestead under chapter 598, an order establishing conditions
3 33 of release or a protective or sentencing order in a criminal
3 34 prosecution arising from a domestic abuse assault, or a
3 35 protective order under chapter 232, and the peace officer is
4 1 unable to take the person into custody within twenty-four
4 2 hours of making the probable cause determination, the peace
4 3 officer shall either request a magistrate to make a
4 4 determination as to whether a rule to show cause or arrest
4 5 warrant should be issued, or refer the matter to the county
4 6 attorney.

4 7 If the magistrate finds probable cause, the magistrate
4 8 shall order the person to appear either before the court which
4 9 issued the original order or approved the consent agreement,
4 10 whichever was allegedly violated or before the court in the
4 11 jurisdiction where the alleged violation or attempted

4 12 violation took place, at a specified time not less than five
4 13 days nor more than fifteen days after the initial appearance
4 14 under this section. The magistrate shall cause the original
4 15 court to be notified of the contents of the magistrate's
4 16 order.

4 17 EXPLANATION

4 18 This bill relates to protective orders filed under the
4 19 domestic abuse Act.

4 20 The bill eliminates the specification in standard pro se
4 21 protective order forms indicating that a plaintiff in a
4 22 domestic abuse action wishes to proceed pro se because the
4 23 plaintiff does not have sufficient funds to pay the filing and
4 24 service fees.

4 25 The bill provides that a person who attempts to violate a
4 26 court order or court-approved consent agreement entered
4 27 pursuant to Code chapter 236, Iowa's domestic abuse law; a
4 28 temporary or permanent protective order or order to vacate the
4 29 homestead under Code chapter 598, Iowa's dissolution of
4 30 marriage and domestic relations law; any order that
4 31 establishes conditions of release or is a protective order or
4 32 sentencing order in a criminal prosecution arising from a
4 33 domestic abuse assault; or a protective order issued under

4 34 Iowa's juvenile justice law commits a simple misdemeanor, or
4 35 the court may hold such a person in contempt of court.
5 1 Current law applies such penalties to persons who actually
5 2 violate the described orders and agreements. The bill further
5 3 provides a definition of "attempted violation" to mean a
5 4 person does any act by which the person expects to set in
5 5 motion a force or chain of events which will cause or result
5 6 in a violation of an order, court-approved consent agreement,
5 7 or protective order. A person convicted or held in contempt
5 8 for a violation of these provisions is required to serve a
5 9 jail sentence. A simple misdemeanor is punishable by
5 10 confinement for no more than 30 days and may include a fine of
5 11 at least \$50 but not more than \$500. Contempt of court is
5 12 punishable by confinement for no more than six months and may
5 13 include a fine of at least \$500.
5 14 The bill specifies that if a magistrate finds probable
5 15 cause to believe that a person has violated or has attempted
5 16 to violate an order or approved consent agreement entered
5 17 under Code chapter 236, a temporary or permanent protective
5 18 order or order to vacate the homestead under Code chapter 598,
5 19 an order establishing conditions of release or a protective or
5 20 sentencing order in a criminal prosecution arising from a
5 21 domestic abuse assault, or a protective order under Code
5 22 chapter 232, the magistrate shall order the person to appear
5 23 either before the court which issued the original order or
5 24 approved the consent agreement, or before the court in the
5 25 jurisdiction where the alleged violation or attempted
5 26 violation occurred.
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